

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TOTAL RX CARE, LLC,

Plaintiff,

v.

GREAT NORTHERN INSURANCE
COMPANY,

Defendant.

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CIVIL ACTION NO. 3:16-cv-2965

JURY DEMANDED

NOTICE OF REMOVAL

Defendant Great Northern Insurance Company (“Great Northern”) hereby removes this civil action originally filed in the 382nd District Court of Rockwall County, Texas to the United States District Court for the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 and would respectfully show the Court as follows:

1. As required by Local Rule 81.1, Great Northern attaches the following documents to this notice of removal:

- (A) “an index of all documents that clearly identifies each document and indicates the date the document was filed in state court”;¹
- (B) “a copy of the docket sheet in the state court action”;²
- (C) “each document filed in the state court action, except discovery material”;³ and

¹ Exhibit 1.

² Exhibit 2.

³ Plaintiff’s Original Petition is filed as a freestanding exhibit, Exhibit 3, for ease of future reference. The remaining state court filings are filed together as Exhibit 4, with individual documents marked with letters corresponding to those listed on the index filed as Exhibit 1.

(D) “a separately signed certificate of interested persons that complies with LR 3.1(c) or 3.2(e).”⁴

2. On September 23, 2016, Plaintiff Total RX Care, LL (“Total RX”) filed its original petition against Great Northern in the 382nd District Court of Rockwall County, Texas under Cause No. 1-16-0994 (the “State Court Action”).

3. On October 3, 2016, Great Northern was served with and first received a copy of the initial pleading and other papers setting forth the claim for relief within the meaning of 28 U.S.C. § 1446(b).⁵ Accordingly, Great Northern has filed this notice of removal within the 30-day period required by 28 U.S.C. § 1446(b).

4. The State Court Action has been pending for less than one year. *See* 28 U.S.C. § 1446(b).

5. Removal is proper based on diversity of citizenship under 28 U.S.C. § 1332(a). In particular:

a. Total RX is a Texas limited liability company with its principal place of business in Texas. Total RX’s sole member, Messorio Healthcare Services, LLC (“Messorio”) is a Texas limited liability company with its principal place of business in Texas. Based on the information reasonably available, the members of Messorio are citizens of Texas. Accordingly, for purposes of diversity jurisdiction, Total RX is a citizen of Texas.

b. Great Northern is an Indiana corporation with its principal place of business in New Jersey. For purposes of diversity jurisdiction, Great Northern is a citizen of Indiana and New Jersey.

⁴ Exhibit 5.

⁵ Exhibit 6, E-mail dated October 3, 2016 between Joseph Ziemianski and Rob Hoffman.

6. Accordingly, there is complete diversity between the plaintiff and the defendant.⁶

7. The amount in controversy, exclusive of interests and costs, exceeds \$75,000. Total RX has submitted a sworn proof of loss providing that the gross amount claimed by Total RX is \$32,828,774.00 and the net amount claimed is \$19,750,314.44.

8. Venue is proper in the Dallas Division of the District Court for the Northern District of Texas because it is “the district and division embracing” Rockwall County, Texas, the place where the State Court Action is pending.⁷

9. A copy of this notice of removal will be filed with the clerk of the 382nd District Court of Rockwall County, Texas and served on Total RX as required by 28 U.S.C § 1446(d).

JURY DEMAND

10. Great Northern demands a jury trial.

CONCLUSION AND PRAYER

For these reasons, Great Northern asks the Court to uphold this removal and to retain jurisdiction over this suit.

⁶ See 28 U.S.C. § 1332(a).

⁷ See 28 U.S.C. § 1441(a).

Respectfully submitted:

/s/ Joseph A. Ziemianski

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on all counsel of record, listed below, via electronic mail and certified mail, return receipt requested, on October 21, 2016.

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